

§ 75.4

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study, use or handling of arms or weapons.

§ 75.4 Policy.

(a) Administrative discharge prior to the completion of an obligated term of service is discretionary with the military service concerned, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the military services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

(1) Except as provided in paragraph (a)(2) of this section, no member of the Armed Forces who possessed conscientious objection beliefs before entering military service is eligible for classification as a conscientious objector if

(i) (a) Such beliefs satisfied the requirements for classification as a conscientious objector pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(j)) and other provisions of law, and (b) he failed to request classification as a conscientious objector by the Selective Service System; or

(ii) (a) He requested classification as a conscientious objector before entering military service, and (b) such request was denied on the merits by the Selective Service System, and (c) his request for classification as a conscientious objector is based upon essentially the same grounds, or supported by essentially the same evidence, as the request which was denied by the Selective Service System.

(2) Nothing contained in this part renders ineligible for classification as a conscientious objector a member of the Armed Forces who possessed conscientious objection beliefs before entering military service if (i) such beliefs crystallized after receipt of an induction notice; and (ii) he could not request classification as a conscientious objector by the Selective Service System because of Selective Service System regulations prohibiting the submission of such requests after receipt of induction notice.

(b) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible objective standards and measurements on an “across-the-board” basis. Requests for discharge or assignment to non-combatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at the headquarters of the military service concerned in accordance with the facts and circumstances in the particular case and the policy and procedures set forth herein.

§ 75.5 Criteria.

General. The criteria set forth herein provide policy and guidance in considering applications for separation or for assignment to noncombatant training and service based on conscientious objection.

(a) Consistent with the national policy to recognize the claims of bona fide conscientious objectors in the military service, an application for classification as a conscientious objector may be approved (subject to the limitations of § 75.4(a)) for any individual:

(1) Who is conscientiously opposed to participation in war in any form;

(2) Whose opposition is founded on religious training and beliefs; and

(3) Whose position is sincere and deeply held.

(b) War in any form: The clause “war in any form” should be interpreted in the following manner:

(1) An individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;

(2) A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in “war” within the meaning of this part.

(c) Religious training and belief: (1) In order to find that an applicant’s moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and